(1308 Maple Avenue) 15th Election District 5th Councilmanic District

\* DEPUTY ZONING COMMISSIONER

\* BEFORE THE

Joseph K. Pokorny, et ux Petitioners

\* OF BALTIMORE COUNTY \* Case No. 93-208-A

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \* \* \* \* \*

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance filed by the owners of the subject property, Joseph K. and Alva A. Pokorny. The Petitioners request relief from Sections 1802.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front average building setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Joseph Pokorny, property owner, and William N. Bafitis, Professional Engineer. There were no Protestants.

Testimony indicated that the subject property, known as 1308 Maple Avenue, consists of 0.441 acres zoned D.R. 5.5 and is presently unimproved. Said property is located within the Chesapeake Bay Critical Areas in the Hyde Park subdivision. The Petitioners are desirous of developing the property with a single family dwelling. While the property is of sufficient size to permit the construction of the proposed dwelling without the need for a variance, the relief requested is necessary due to the location of a springhead on the property which has forced the Petitioners to situate the proposed dwelling to within 25 feet of the front property line. Further, due to the property's location within the Chesapeake

Bay Critical Areas, the Petitioners must comply with the recommendations of the Department of Environmental Protection and Resource Management

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; er; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must

3/31/93

ORDE Date

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take to insure that the relief requested complies with the following Chesa-

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this  $30^{44}$  day of March, 1993 that the Petition for Zoning Variance requesting relief from Sections 1802.3.C.1 and 303.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a front average building setback of 25 feet in lieu of the required 30 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

> 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such

> > - 3-

peake Bay Critical Areas requirements to:

time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) Compliance with the Zoning Plans Advisory Committee comments submitted by the Office of Planning and Zoning, dated January 8, 1993. The Petitioners shall remove all junk and debris from the subject site within sixty (60) days of the date of this Order and prior to the issuance of any building permits.

3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated January 15, 1993, attached hereto and made a part hereof.

TIMOTHY M. KOTROCO

TMK:bjs

Deputy Zoning Commissioner for Baltimore County

Petition for Variance 93-208-A to the Zoning Commissioner of Baltimore County

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386 March 30, 1993

Mr. & Mrs. Joseph K. Pokorny 8103 Halton Road Baltimore, Maryland 21204

RE: PETITION FOR ZONING VARIANCE SW/S Maple Avenue, 860' NW of the c/l of Hyde Park Road (1308 Maple Avenue) 15th Election District - 5th Councilmanic District Joseph K. Pokorny, et ux - Petitioners Case No. 93-208-A

Dear Mr. & Mrs. Pokorny:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

**Baltimore County Government** Zoning Commissioner Office of Planning and Zoning

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

> Very truly yours, TIMOTHY M. KOTROCO

Deputy Zoning Commissioner for Baltimore County

TMK:bjs

cc: Chesapeake Bay Critical Areas Commission 45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM People's Counsel

hereto and made a part hereof, hereby petition for a Variance from Section(s) 1B02.3.C.1 and 303.1 (BCZR) to permit a front average building setback of 25' in lieu of the required 30 feet. Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.



93-208-A

#### ZONING DESCRIPTION 1308 Maple Avenue

Beginning for the same at a point on the southside of Maple Avenue, 40 feet wide, being a distance of 860' northwesterly from the centerline of Hyde Park Road said point of beginning also being at the north west corner of Lot No. 111 on Plat No.2 (revised), Goodwood Farms, which plat is recorded among the Land Records of Baltimore County in Plat Book Liber W.H.M. No. 9, Polio 46, thence running with the binding on said south side of Maple Avenue south 44°15' east 100 feet to a point, thence leaving the south side of Maple Avenue the following three courses: S.45'45' W., 198.83 feet, N.36°29'W., 100.93 feet, N.45°45'E., 185.19 feet to the place of beginning. Containing 10,890 square feet being known as 1308 Maple Avenue.



MD Reg. No. 11641

Civil Engineers / Land Planners / Surveyors — 1249 Engleberth Road / Baltimore, Maryland 21221 / 301-391-2336

Location of Signer Foring you de uny on pro party of fall his

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CERTIFICATE OF POSTING

DEPARTMENT OF BALTIMORE COUNTY 93-208- A

Variance to permit a front average building authors of 25 feet in fleu of the required 30 feet.

CERTIFICATE OF PUBLICATION

TOWSON, MD., \_\_\_\_\_\_, 19 THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_successive weeks, the first publication appearing on \_\_\_\_\_\_\_\_. 19\_\_\_\_\_.

THE JEFFERSONIAN.

CRITICAL

Jem 04TE 12-23-92

EIVED FOR I

ORD Date

for the property located at 1308 Maple Avenue which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty) required compliance with Baltimore County regulations regarding Chesapeake Bay Critical Areas, protection by buffering of non-tidal wetlands, streams and springs radically reduces the available area for placement of a dwelling thus generating the hardship and practical difficulty requiring a variance to the BCZR.

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Zoning Administration & Development Management

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or and Marylan 2 21204

\$50.00

54A04#0U48M1CHRC 8A 0010113AM02-03-93 Please Make Checks Payable To: Baltimore County

Account: R 001-6150

111 West Chesapeake Avenue

Towson, MD 2120+

Baltimore County Government Office of Zoning Administration and Development Management

(410) 887-3353

Your petition has been received and accepted for filing this

DIRECTOR

Petitioner: Joseph K. Pokorny, et ux Petitioner's Attorney:

23rd day of December 1992.

**Baltimore County Government** 



111 West Chesapeake Avenue Towson, MD 21204

DATE: 1/26/93

Joseph and Alva Pokorny 8103 Halton Road Baltimore, Maryland 21204

CASE MUMBER: 93-208-A (Item 216) SW/S Haple Avenue, 860' NW of c/l Hyde Park Road 1308 Maple Avenue 15th Election District - 5th Councilmanic Petitioner(s): Joseph K. Pokorny and Alva A. Porkorny HEARING: FRIDAY, PEBRUARY 5, 1993 at 9:00 a.m. in Rm. 106, Office Building.

Dear Petitioner(s):

Please be advised that \$ 66,13 is due for advertising and posting of the above captioned

THIS PEE MOST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL MOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 109, Towson, Haryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

DPW/Developers Engineering Division (Public Services)

Waiver Number

Authorized signature Dennie A. Kennedy Date 1/11/93

Development Review Committee Response Form

Marshall and Mildred Whipperman

Eudowood Holding Corporation

Joseph K. And Alva A. Pokorny

Wyaness Associates Limited Partnership

Stonegate at Patapsco (Azreal Property)

ZON DED TE (Waiting for developer to submit plans first)

Pikesville Partnership

Pickersgill, Inc.

\*\*\* END OF REPORT \*\*\*

Project Name

DED DEPRM RP STP TE

COUNT 5

COUNT 2

COUNT 1

FINAL TOTALS COUNT 8

J.F.O. Holding Corporation

Printed on Recycled Paper

Office of Zoning Administration and Development Management

(410) 887-3353 111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

#### NOTICE OF HEARING

Baltimore County Government

Office of Zoning Administration

and Development Management

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Townon, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE MUMBER: 93-208-A (Item 216) SW/S Maple Avenue, 860' NW of c/l Hyde Park Road 1308 Maple Avenue 15th Election District - 5th Councilmanic Petitioner(s): Joseph K. Pokorny and Alva A. Porkorny

<u>Variance</u> to permit a front average building setback of 25 feet in lieu of the required 30 feet.

HEARING: FRIDAY, FEBRUARY 5, 1993 at 9:00 a.m. in Rm. 106, Office Building.

Armold Jablon

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Joseph K. Pokorny

The petitioner is requesting a variance to permit a front average building

The Office of Planning and Zoning recommends APPROVAL of the petitioner's

request. However, we recommend that the following condition be placed in the

The Office of Planning and Zoning made a site visit and found the property to be in a deteriorating condition. The petitioner should clean up all junk and debris

from this property and replace or repair the deteriorating wooden fence along the

DATE: January 8, 1993

43-208-A

TO: Arnold Jablon, Director

SUBJECT: 1308 Maple Avenue

Zoning Commissioner's Order.

INFORMATION

Item Number:

Property Size:

Petitioner:

Zoning Administration & Development Management

FROM: Pat Keller, Deputy Director

Office of Planning and Zoning

216

setback of 25' in lieu of the required 30 feet.

0.441 acres

01/11/93

Meeting Date

12-28-92

1-04-93

111 West Chesapeake Avenue

Towson, MD 21204

January 22, 1993

Baltimore County Government Office of Zoning Administration

and Development Management

(410) 887-3353

Mr. and Mrs. Joseph K. Pokorny 8103 Halton Road Baltimore, MD 21204

> RE: Case No. 93-208-A, Item No. 216 Petitioner: Joseph K. Pokorny, et ux Petition for Variance

## Dear Mr. and Mrs. Pokorny:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.



State Highway Administration



Administrator

1-4-93

Ms. Julie Winiarski Zoning Administration and Development Management County Office Building Room 109 111 W. Chesapeake Avenue

Towson, Maryland 21204

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717

216.ZAC/ZAC1

Printed on Recycled Paper

	DPW/Traffic Engineering Development Review Committe Authorized signature	e Response F	orm 1 K. L	j> 1/l.	01/11/93 Date <u>]/U/93</u>
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	Pickersgill, Inc.	Pickersgill, Inc.		mtt	12-28-92
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	COUNT 1				
٠.	Stonegate at Patapsco (Azreal Property) 90476				6-1-92
	ZON DED TE (Waiting for developer to submit plans first)				===========
•	COUNT 1				
	FINAL TOTALS COUNT 7				
	* * * END OF REPO	RT ***			

93-208-14

# BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: November 26, 1991 Zoning Administration and Development Management

FROM: Robert W. Bowling, F.E.

RWB:s

Zoning Advisory Committee Meeting for November 28, 1991

The Developers Engineering Division has reviewed the subject coning items and we have no comments for Items 194 (Jase #92-184 A), 216, 229, 230, 231, 232 and

> Robert Bowling ROBERT W. BOWLING, F.E., Chief Developers Engineering Division

# BALTIMORE COUNTY, MARYLAND

## DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold E. Jablon, Director Office of Zoning Administration and Development Management

DATE: January 15, 1993

93.342

## FROM: J. James Dieter

SUBJECT: Petition for Zoning Variance - Item 216 Pokorny Property Chesapeake Bay Critical Area Findings

#### SITE LOCATION

The subject property is located at 1308 Maple Avenue. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

## APPLICANT'S NAME Mr. Joseph K. Pokorny

#### APPLICANT PROPOSAL

The applicant has requested a variance from section 1802.3.C.1 and 303.1 of the Baltimore County Zoning Regulations to permit a front average building setback of 25 feet in lieu of the required 30 feet.

#### GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

- "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- 2. Conserve fish, wildlife and plant habitat; and
- Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." <COMAR 14.15.10.01.0>



Mr. Arnold E. Jablon January 15, 1993

### REGULATIONS AND FINDINGS

Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Section 26-449(a)>.

<u>Finding:</u> The proposed construction is located over 100 feet from tidal waters and tidal wetlands. A tributary stream and its springhead occur 36 feet northwest of the property and the 100 foot buffer associated with the stream affects a significant portion of the lot. The proposed construction is not located within the 100 foot buffer and therefore, the project is in compliance with this regulation.

Regulation: "Dredging, filling, or construction other than approved bulkheading shall not be permitted in any non-tidal and tidal wetlands unless the proposed development consists of utility, bridge, or street development in a non-tidal wetland and unless the Director of Environmental Protection and Resource Management finds this proposed development not detrimental to the County's Wetland Management Programs" <Baltimore County Code, Section 26-447>.

Finding: Non-tidal wetlands are present on the southwest corner at this site. A 25 foot buffer is associated with the non-tidal wetland. No dredging, filling or construction is proposed in the non-tidal wetland or its buffer and this regulation has been met.

3. Regulation: "If a parcel or lot one-half acre or less in size was in residential use or zoned for residential purposes on or before December 1, 1985, then man-made impervious surfaces associated with that use are limited to 25% of the parcel or lot" <Baltimore County Code, Section 26-543(e)(1)>.

Findings: The existing lot is 19,201 square feet in size. The impervious surface limit for this lot is 4800 square feet. The proposed impervious surfaces are 1340 square feet or 7% and this regulation has been met.

Regulation: "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15%" <COMAR 14.15.02.04 C.(5)(e)>.

Memo To Mr. A. Jablon

Finding: The following plant material shall be selected from the enclosed list and planted in addition to existing vegetation to provide a 15% forested cover.

Shrub and small tree list: 8 items - ball and burlap or 2 gallon container size

2 items - ball and burlap 1 - 1.5 inch caliper

Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from subsurface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorous associated with them.

Regulation: "Infiltration of stormwater shall be maximized throughout the site, rather than directing flow to single discharge points" <Baltimore County Code, Section 26-453(h)(2)>.

Finding: Stormwater runoff shall be directed from impervious surfaces associated with this plan, to previous areas, to encourage maximum infiltration. Rooftop runoff shall be directed through downspouts and into a seepage pit sized to capture the first half inch of rainfall. These measures will ensure that this regulation has been

## CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above. This proposal will comply with Chesapeake Bay Critical Area Regulations, if it is conditioned to meet the regulations in these Findings. If there are any questions, please contact Ms. Patricia M. Farr at 887-2904.

> J. James Dieter. Director Department of Environmental Protection and Resource Management

POKORNY/TXTNSS







